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SUBSTANTIVE ISSUES ARISING IN THE IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS:

Statement of the Committee on Economic, Social and Cultural Rights to the International Consultative Conference on School Education in Relation to Freedom of Religion and Belief, Tolerance and Non-Discrimination, Madrid, 23-25 November 2001

Adopted on 12 November 2001

1. The Committee on Economic, Social and Cultural Rights has the pleasure of submitting the present statement to the International Consultative Conference on School Education in Relation to Freedom of Religion and Belief, Tolerance and Non-Discrimination, being held in Madrid from 23 to 25 November 2001.

2. In compliance with requests by the United Nations General Assembly and the Commission on Human Rights, the Committee actively contributed to the preparatory process leading up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and made recommendations concerning the draft declaration and programme of action.

3. The Committee's contributions to the World Conference against Racism consisted of two general comments relating to the right to education, namely General Comment No. 11 on

plans of action on the right to education enshrined in article 14 of the International Covenant on Economic, Social and Cultural Rights (E/C.12/1999/4) and General Comment No. 13 on the right to education as set forth in article 13 of the Covenant (E/C.12/1999/10).

4. In its submission to the first session of the Preparatory Committee for the World Conference, the Committee focused on the right to education as set forth in articles 13 and 14 of the Covenant, as it is universally recognized that education has a pivotal role to play in the struggle against racism and related intolerance (A/CONF.189/PC.1/14, para. 3). This position has also been taken by the General Assembly (in resolution 53/132 of 9 December 1998), the Commission on Human Rights (in a report of its working group to review and formulate proposals for the World Conference) and by the Committee on the Elimination of Racial Discrimination.

5. The Committee invites the attention of the Madrid Conference to those sections of article 13 of the Covenant and its General Comment No. 13 which explicitly bear upon racism and racial discrimination and as set forth in its submission to the preparatory process of the World Conference:

(a) Article 13, paragraph 1, setting out the aims and objectives of education, declares that "education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms". Further, "education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups";

(b) "The prohibition against discrimination enshrined in article 2 (2) of the Covenant is subject to neither progressive realization nor the availability of resources; it applies fully and immediately to all aspects of education and encompasses all internationally prohibited grounds of discrimination." (General Comment No. 13, para. 31);

(c) "The adoption of temporary special measures intended to bring about de facto equality for men and women and for disadvantaged groups is not a violation of the right to non-discrimination with regard to education, so long as such measures do not lead to the maintenance of unequal or separate standards for different groups, and provided they are not continued after the objectives for which they were taken have been achieved." (General Comment No. 13, para. 32);

(d) "States parties must closely monitor education - including all relevant policies, institutions, programmes, spending patterns and other practices - so as to identify and take measures to redress any de facto discrimination. Educational data should be disaggregated by the prohibited grounds of discrimination." (General Comment No. 13, para. 37);

(e) "[T]he form and substance of education, including curricula and teaching methods, have to be acceptable (e.g. relevant, culturally appropriate and of good quality) to students and, in appropriate cases, parents ... subject to the educational objectives required by article 13 (1) and such minimum educational standards as may be approved by the State." (General Comment No. 13, para. 6 (c));

(f) "[E]ducation has to be flexible so it can adapt to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings." (General Comment No. 13, para. 6 (d));

(g) Paragraph 9 of General Comment No. 13 quotes with approval from the World Declaration on Education for All (Jomtien, Thailand, 1990): "Primary education must be universal, ensure that the basic learning needs of all children are satisfied, and take into account the culture, needs and opportunities of the community."

(h) "The requirement [in article 13 (2)] that 'an adequate fellowship system shall be established' [under article 13 (2)] should be read with the Covenant's non-discrimination and equality provisions; the fellowship system should enhance equality of educational access for individuals from disadvantaged groups." (General Comment No. 13, para. 26);

(i) "Given the principles of non-discrimination, equal opportunity and effective participation in society for all, the State has an obligation to ensure that the liberty [to establish private educational institutions] does not lead to extreme disparities of educational opportunity for some groups in society." (General Comment No. 13, para. 30.)

6. In conclusion, the Committee reaffirms the opening words of its General Comment No. 13: "Education is both a human right in itself and indispensable means of realizing other human rights. As an empowerment right, education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities". Education is one of the most powerful tools by which the world can overcome racism, racial discrimination, xenophobia and related intolerance. Thus, an essential strategy for the elimination of discrimination is a renewed commitment, supported by the necessary resources, to realize the right to education as enshrined in the International Covenant on Economic, Social and Cultural Rights.